

Listening Session: American Indian Employees & Employers

The Workplace Partnership Group conducted a listening session on Tuesday, January 26, 2016, to engage the American Indian community. The session was conducted at the All My Relations Gallery, 1414 E. Franklin Avenue, beginning at 5:04 p.m. Participants were invited to provide their perspectives in response to a pre-arranged set of questions related to policy issues concerned with earned sick time and paid time-off (PTO). The following is a summary of feedback from this listening session.

PARTICIPANT FEEDBACK

[The following questions established the broad framework within which participants were invited to provide feedback.]

Question #1. How broadly or narrowly should the City of Minneapolis consider coverage to effectively address the public health and equity concerns associated with policies related to earned sick time and paid time-off?

Question #2. How should paid sick time and/or paid time-off be used? What are your experiences in offering this kind of coverage, or in using paid sick time?

Question #3. How should paid sick time and/or paid time-off be earned? Should it vary by hours worked, business sector, revenue, number of employees? Should it be capped?

Question #4. What, if any, measures should be considered to ensure workers are not penalized for using paid sick time, and to ensure that employers are not subject to undue hardship or abuse of such policies?

One participant, reflecting on her experiences as an employee, recounted how as she was first entering the work world she was in a new job for approximately 3 months when her mother fell ill, ultimately resulting in her death. Because she didn't have access to paid sick time—or bereavement leave—this a challenge to her, and she was burdened with the choice of keeping her job or caring for her mother. In the end, after taking two unpaid days off from work to care for her mother, her job was terminated. Although she now was in a position that provided access to paid leave, she said that early experience made her realize the importance of ensuring all workers had access to paid sick time or paid time-off from work.

Another participant said that, particularly within the American Indian community, the definition of “family” and the application of leave policies to care of family members was of critical importance, explaining that the cultural concept of family was much broader than the traditional interpretation of “immediate family members.” Within the American Indian, the concept of family includes grandparents, aunts and uncles, nephews and nieces, cousins, extended blood relatives, and even very close friends who were also considered to be members of the family. Thus, a policy that gave workers protected access to paid leave to care for family members should be cognizant of these distinctions, which could vary from one community to the next. It was suggested that other laws—possibly at higher government levels—may already define familial relationships, which might help guide the interpretation and applicability of a municipal policy, within the context established under state law. It was also suggested that other municipal policies from comparable jurisdictions might have an alternative definition or provision that was more culturally-sensitive and broader in its understanding of those interpretations.

With respect to business owners, it was acknowledged that potential employee abuse of paid leave policies was a concern and therefore needed to be addressed in a way that was still respectful of employees. Thus, it was recommended that a policy should clearly delineate the length of time, specific patterns of use, and

similar factors that could be considered by an employer when making decisions about permitting, limiting, or even restricting employee access to accrued hours of paid leave. If those decisions were left solely to the discretion of employers, it was feared that such authority could be used punitively. So, the ability to define within a policy what constitutes a “negative pattern of abuse” by employees before they could be denied access to accrued leave time was important.

One participant, a business owner, said he tried to always consider the family needs of his workers when time off was requested because he wanted to take care of his employees. He said it was a trust relationship and noted that during his 5 years in business he had only 2 employee terminations. Still, he said that if he had extended costs resulting from a city sick time policy he would likely not remain in business within Minneapolis. He noted that he worked a second job in order to keep his business operating; so the potential negative consequences of a uniform mandate on paid sick time affected him personally. He noted how, as a small business owner, it was often challenging to make ends meet, and he was apprehensive about the city enforcing workplace regulations that he perceived could create unnecessary challenges: in terms of marketplace competition within the metropolitan region; in terms of his business’s operating model and the capacity to absorb further increases in labor costs, particularly given the recent statewide increase in minimum wage; and in his ability to absorb the financial impact, noting that it was not always practical to assume that a business—particularly a small business—could easily pass along such operating costs to its customer base in the form of higher prices. He emphasized that, personally, he had no qualms with the concept of universal access to paid sick time; however, the reality is that his ability to absorb the actual costs—or to pass those costs along to customers—was limited. He said there was a tipping point at which his business was no longer competitive in the marketplace and, therefore, no longer sustainable. He suggested that having the policy more broadly applied to the metropolitan region might offset some of those concerns.

Another business owner added that it was difficult to consider or even plan for the potential cost impact of a policy when no specific details had been provided; thus, the ability to provide meaningful input was severely limited, and this served to heighten fears in the business community about the full ramifications—and costs—that a city mandate might have. She questioned if an exception to the policy could be considered, for small businesses generally, or at least for business start-ups; for example, a period of time for new businesses when the policy would not apply, giving sufficient time to get a business up and running. That approach might help to alleviate the potential financial hardship in some cases. She also suggested a phased approach to implementation might be helpful, starting with large corporations and larger-sized businesses that appeared to have more capacity to absorb the cost implications, so that the city could adjust as needed before extending the policy to small businesses (and even micro-businesses).

One participant asked if the city could offer a financial incentive, or a tax benefit, to help encourage businesses to offer their employees paid sick time. Although she didn’t have any ideas on what that might look like, she offered that it was an innovative approach that might be more appealing to business owners who were already very concerned about operational impacts and increasing labor costs. Additionally, to help offset cost impacts for business owners, she suggested that leave time accruals be capped and that thought should be given to whether or not to allow accrued hours to carry over from one year to the next. Otherwise, employees might bank accrued hours to an extent where it presented a significant financial burden on the employer.

Another participant said that a good policy that helped businesses attract and retain a good workforce was good for businesses overall and also made for happy employees who, in turn, were more productive and satisfied with their jobs, which in turn contributed toward higher retention and engagement. Therefore, a policy which balanced business interests with the needs of workers should be a win-win strategy. She said she had access to good benefits as a worker, and that certainly incentivized her to want to work hard for her employer and do a good job.

One participant, representing employers, appreciated the focus had been broadened from public health issues and workplace regulations to include a desire to address disparities and equity impacts within the

community. He said workers at the smallest businesses tended to be the most vulnerable to serious consequences that often resulted when access to important benefits like paid sick time occurred. As an employer whose workforce was nearly 70% Native American, that focus on equity was important. To that end, he supported efforts to leverage the city's authority, through appropriate means, to expand access to paid leave for all workers, assuming no undue burden on the business community. He echoed earlier comments about the importance of family within the American Indian community, which had implications for how American Indian workers might want (or choose) to use paid leave benefits, not just to care for themselves or the immediate families, but for extended members of the family as well. With respect to his organization, he said employees were all eligible to accrue PTO, which was consolidated into a single pool of leave hours used at the discretion of the employee.

Other participants supported a policy on PTO—as opposed to a policy specifically on paid sick time—because of the increased flexibility and the advantages offered to employees, particularly the ability to use PTO for any purpose. With separate forms of leave accrual, there are always more complications in terms of administration, recordkeeping, accrual amounts and caps, use provisions, and other factors that could be frustrating to both employers and employees. There was general support for a uniform PTO policy, with allowances for businesses to manage to their unique operating needs within a very broadly-stated set of parameters. Also, one participant said a uniform PTO policy should apply equally to the need for physical health care as well as mental health care, and added that employees should not be required to disclose their illnesses to qualify for paid time off. As a starting point, it was suggested that all employees should receive 5 days of PTO before having to provide documentation (doctor's note) verifying an illness or to return to work.

One participant questioned what impact a municipal sick time or PTO policy would have on him as an independent contractor or consultant. He wondered what the impact for him would be if he needed to hire an employee—even temporarily—to assist him with a limited/defined scope of work. This appeared to be an area that had not been contemplated by the Workplace Partnership Group. There was some discussion on this point by members of the Workplace Partnership Group in attendance.

Another participant questioned the interaction a municipal sick time or PTO policy might have with other policies; for example, workers compensation claims and time off associated with those claims. How would a city mandate on PTO correlate to state laws regulating time off from work due to a workers compensation claim? How would those types of coverages work, and would there be any conflicts between them? These were identified as areas requiring further reflection by the Workplace Partnership Group.

Some other concerns identified by participants included the operational and cost impacts on nonprofit organizations, noting the high percentage of American Indian workers within that sector. Also, the differences in the effect on full-time versus part-time employment status, and the potential consequence of a policy mandate which could drive more employers to pursue increased numbers of part-time workers rather than full-time workers as a way to avoid paying sick time benefits. Because part-time, seasonal, and temporary workers tended to be the most negatively impacted by lack of access to paid leave policies, it was important to consider accrual methods that incentivized more businesses to offer equal businesses—within reason—to part-time, seasonal, and temporary workers.

Reflecting back on the notion of a broader, regional approach, one participant inquired as to the city's appetite for pursuing legislative change at the state level, and whether the Workplace Partnership Group might include among its recommendations a suggestion related to a possible plan for regional or statewide advocacy. While it was unknown if the City Council had such interest, it was possible the Workplace Partnership Group could address such matters within its final report, with some general recommendations in that regard. Another issue of concern was the potential for a city mandate to negatively impact businesses that already offered benefits to its workforce. On that point, it was suggested that one option discussed by the Workplace Partnership Group was to recommend a certain minimum set of standards that would establish a "floor" to be applied across all industries and business sectors; that way, if a business, company,

or organization offered the same or comparable benefits as those minimal standards, they would potentially be exempt from further policy mandates, including further monitoring or compliance issues.

One participant questioned if an alternative approach might be to incentivize businesses to pursue and/or implement paid leave policies, potentially within a set of minimum expected standards set by the city, with the potential for financial inducements, rather than a more traditional regulatory approach, which tended to be based on compliance and punishments for lack thereof.

Finally, one participant, referencing the different cultures and nationalities prevalent in Minneapolis and pointing to the expressed goal of greater equity, suggested a city policy should also look to establish an agency that could serve as a sort of honest broker or mediator between employers and employees, a place that could also offer information, assistance, and support. Furthermore, the city was strongly encouraged to ensure that policy information, details, etc., were offered in multiple formats and languages to respect the diversity of the community. An aggressive communications plan would need to be developed to ensure that employers and employees all had equal access to information about the policy, its requirements, and how any paid leaves were available to be used, under what conditions, and for what purposes, etc.